



Agenda Date: 7/1/09  
Agenda Item: 9B

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.nj.gov/bpu/**

IN THE MATTER OF DOROTHY AND )  
FRED HOESLE PETITION FOR )  
EXEMPTION FROM MAIN EXTENSION )  
RULES N.J.A.C. 14:3-8.8(b)(2) ) ORDER GRANTING EXEMPTION  
Docket No: EO09030196

(SERVICE LIST ATTACHED)

BY THE BOARD:

By this Order, the Board of Public Utilities (Board) considers a request by Dorothy and Fred Hoesle ("Petitioners") for consideration of an exemption from the Main Extension Rules, N.J.A.C. 14:3-8.1 et seq. ("Main Extension Rules") pursuant to N.J.A.C. 14:3-8.8(b)(2)<sup>1</sup>. This section of the Rules provides for an exemption from the cost limits on extensions of service in areas not designated for growth due to extreme hardship.

**FACTUAL BACKGROUND**

The Petitioners built a house at 3 4<sup>th</sup> Street, Branchville/Frankford, County of Sussex, New Jersey, in an area not designated for growth in August-September 2007. Petitioners now seek relief from the rules which would otherwise require them to pay the entire cost of extending electric service to a 1,560 square foot 2 bedroom house on a developed street. Jersey Central Power and Light determined that the cost of extending electric service to the house is \$4697.57.

Petitioners filed a petition for an extraordinary hardship with the Board on September 11, 2007. This work has been completed and paid for by Petitioners under protest. By granting this petition, the Board would Order a reimbursement of these funds from JCP&L to Petitioners.

Petitioner's property is located in a non-growth area, Planning Area 4- Rural Planning area.

To obtain an exemption based on an extraordinary hardship, N.J.A.C. 14:3-8.8(i) provides that a person must demonstrate to the Board that all of the following criteria are met:

1. Compliance with this subchapter would cause an extraordinary hardship. *Factors the Board will consider when deciding whether an extraordinary hardship exists include, but*

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<sup>1</sup> Petitioners initially filed for an exemption pursuant to N.J.A.C. 14:3-8.8(a)(7). Effective May 19, 2008, the Board amended its Main Extension Regulations and moved the relevant exemption from N.J.A.C. 14:3-8.8(a)(7) to N.J.A.C. 14:3-8.8(b)(2).



*are not limited to, the cost of the extension, the degree of financial hardship created by the cost of the extension, and the impact of the development served by the extension on land use patterns. However, financial hardship alone shall not constitute a basis for this exemption;*<sup>2</sup>

Here, Petitioners argue that the financial burden of paying for the extension creates an extraordinary hardship as it is exacerbated by the following facts: Petitioners are both in their eighties and on a fixed income. Mr. Hoesle, a World War II veteran suffers from Alzheimer's and cancer. Mrs. Hoesle suffered a heart attack in 2007. The Petition states that they are medically impaired. Petitioners built a small 2 bedroom house on the only available lot on the road. Mrs Hoesle states that Petitioners built this house "because of its location to my three daughters" in order to receive assistance. In her March 13, 2009 supplemental submission, Ms. Hoesle states that her husband has been admitted to the Homestead nursing home in Newton, since filing this petition in 2007, due to his deteriorating health. The Homestead is approximately 5 miles from the subject property.

2. The extraordinary hardship results from unique circumstances that do not apply to or affect other projects in the region;

Here, Petitioners argue that the hardship results from a combination of the financial and medical circumstances as well as the need to live in close proximity to Petitioners' daughters and that these circumstances do not apply to other projects in the region and are unique. The Petitioners further state that this is the last lot on a country lane where the remaining customers are serviced by an existing pole.

3. The unique circumstances arise from the project itself and not from the circumstances or situation of the regulated entity or its customers; and

Here, Petitioners argue that their unique circumstances result in part from their unfortunate deteriorating health conditions exacerbating the burden of paying for an extension of electric service, which includes the installation of an additional pole and transformer and not from the circumstances or situation of the regulated entity or its customers. These medical circumstances and the need for assistance and care from Petitioners' daughters are not based on the situation of the regulated entity or its customers.

4. Neither the extraordinary hardship nor the unique circumstances are the result of any action or inaction by the regulated entity, its shareholders, or its customers.

Here, Petitioners argue that the extraordinary hardship and their unique circumstances, described above, are not the result of any action or inaction by the regulated entity, its shareholders, or its customers.

## **DISCUSSION**

After reviewing the petition, the Board FINDS that the above criteria have been met. Specifically, the Board FINDS that the Petitioners hardship is exacerbated because of

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<sup>2</sup> N.J.A.C. 14:3-8.8(i) was amended in May 2008, after Petitioners filed their petition. The amended language is in italics. Petitioners were notified by mail on March 6, 2009 of this rule amendment and given the opportunity to amend their petition in light of the rule change. Petitioner responded by submitting the same material originally submitted.



Petitioners age, income and medical conditions. The Board further notes that the project was being built on the only available lot of an existing cul-de-sac street. While personal financial distress arising from circumstances unrelated to the project does not result in a determination of extraordinary hardship, in the instant matter there are other unique circumstances that merit such a finding. See In the Matter of Evelyn DeLarentis Petition for Exemption from Smart Growth Rules, Non-Docketed Matter, (September 13, 2005). Therefore, the Board HEREBY APPROVES the petition for an exemption from the Main Extension Rules pursuant to N.J.A.C. 14:3-8.8(b)(2) for an extension of electric service to a house at 3 4<sup>th</sup> Street, Branchville/Frankford, County of Sussex, New Jersey.

Pursuant to N.J.A.C. 14:3-8.8(k)(3), the Board is to determine the distribution of costs for the extension at the time of approval of the exemption based on extraordinary hardship. Therefore, the Board HEREBY ORDERS that the distribution of costs to extend electric service shall be governed by the requirements at N.J.A.C. 14:3-8.7 for extensions that serve a designated growth area. The Board ORDERS JCP&L to treat Petitioners prior payment as if it were a deposit and calculate a refund in accordance with N.J.A.C. 14:3-8.11.

DATED: 7/1/09

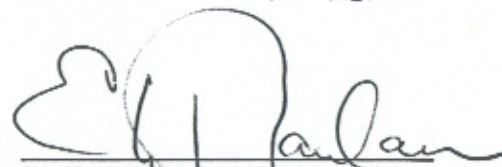
BOARD OF PUBLIC UTILITIES  
BY:

  
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PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

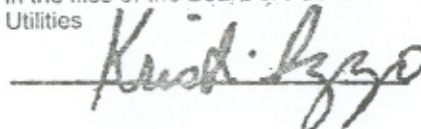
  
NICHOLAS ASSELTA  
COMMISSIONER

  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



IN THE MATTER OF DOROTHY AND FRED HOESLE PETITION  
FOR AN EXEMPTION FROM THE MAIN EXTENSION RULES N.J.A.C. 14:3-8.8(b)(2)

Docket No. EO09030196

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